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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/807,502	03/24/2004	Eric Benazzi	PET-2133	3401
23599	7590	09/26/2006	EXAMINER	
MILLEN, WHITE, ZELANO & BRANIGAN, P.C. 2200 CLARENDON BLVD. SUITE 1400 ARLINGTON, VA 22201			SAMPLE, DAVID R	
			ART UNIT	PAPER NUMBER
			1755	

DATE MAILED: 09/26/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/807,502

Applicant(s)

BENAZZI ET AL.

Examiner

David Sample

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 July 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) 10-15 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 and 16-19 is/are rejected.
- 7) ☒ Claim(s) 1,3,5,16,18 and 19 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 20040324.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

Applicant's election of claims 1-9 and 16-19 in the reply filed on July 11, 2006 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Claims 10-15 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on July 11, 2006.

Rejoinder will occur when the catalyst claims are allowed so long as the nonelected claims contain all of the recitations of the allowed catalyst claim.

The election of species is hereby withdrawn.

Information Disclosure Statement

The information disclosure statement filed March 24, 2004 fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each cited foreign patent document; each non-patent literature publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. It has been placed in the application file, but the information referred to therein has not been considered.

Claim Objections

Claims 1, 3, 5, 16, 18 and 19 are objected to because of the following informalities:

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Claim 1, line 4, recites "at least one zeolite chosen zeolites ...," which is not idiomatic English. It appears that applicants mistakenly deleted the word "from" from the claim.

In claims 3, 18 and 19, line 1, "ZBM-30" is mistakenly written as "ZMB-30."

In claim 5, line 2, "oxide-type" is objected to as the word "type" adds nothing to the meaning of the claim.

In claim 16, line 2, a comma has been omitted between the word "metal" and "alumina".

In claim 16, line 3, it is believed that the word "in" should be the word "a".

Appropriate correction is required.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 and 4-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Degnan et al. (US 2003/0168379).

Degnan et al. discloses a process for isomerization dewaxing of a hydrocarbon feed by contacting the feed with a large pore zeolite and an intermediate pore zeolite. See the abstract. The large pore and/or small pore zeolite are preferably ion exchanged with a group VIII metal. See page 2, paragraph [0024]. The large and/or small pore zeolite are each mixed with a binder

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(i.e., matrix). See page 2, paragraph [0026]. The large pore and intermediate pore size zeolite may be combined together to form a single combination catalyst. See page 2, paragraph [0019].

Degnan et al. discloses that the large pore zeolite may be zeolite Y and the intermediate pore size zeolite may be ZSM-48. See page 2, paragraphs [0015] and [0016]. Moreover, the reference exemplifies a catalyst system in which the large pore zeolite is zeolite Y and the intermediate pore zeolite is ZSM-48. See page 10, Table 10, Examples 16 and 17.

Degnan et al. differs from the present claims by failing to disclose an anticipatory example containing all of the required components of the present catalyst. However, Degnan et al. discloses that all of the disclosed components may be combined into a single combination catalyst. Therefore, it would have been obvious to combine the large pore zeolite (e.g., Y), the intermediate pore zeolite (e.g., ZSM-48), the binder and the group VIII metal into a single combination catalyst because Degnan et al. teaches that such combination of components results in a catalyst that produces dewaxed products having improved fluidity (see page 2, paragraph [0013]).

As to claim 4, Degnan et al. discloses employing USY which is inherently partially amorphous. See Examples 16 and 17 of Degnan and page 8, lines 6-10 of the instant specification.

The recitations of claim 5 can be found in the reference at page 5, paragraph [0053].

The amounts of components recited in claim 9 can be found in the reference at paragraphs [0048] and [0053] with the binder making up the remainder.

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Claims 2, 3, 16-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Degnan et al. (US 2003/0168379) as applied to claim 1 above, and further in view of Gies et al. (*Catalog of Disorder in Zeolite Frameworks*, 2002).

Degnan et al. differs from claims 2, 3, and 16-19 by failing to disclose the use of ZBM-30 in the catalyst.

However, Gies et al. discloses that ZSM-48 and ZBM-30 are part of the same family of disordered zeolite structures. See section 6 of Gies et al.

Therefore, it would have been obvious at the time the invention was made to have substituted ZBM-30 for ZSM-48 in the catalyst of Degnan et al. as suggested by Gies et al. because ZSM-48 and ZBM-30 are of the same disordered structure family.

Claim 3 is directed to a process limitation in a product claim in that it describes how the ZBM-30 was obtained. Thus, claim 3 is a product-by-process claim. For purposes of examination, product-by-process claims are not limited to the manipulation of the recited steps, only the structure implied by the steps. See MPEP 2113. In the present case, the recited steps imply that the resultant zeolite has the ZBM-30 structure. The combination of references suggests such a product.

Conclusion

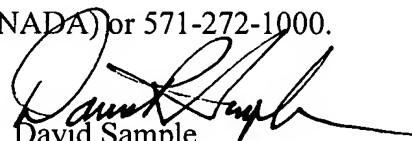
The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to David Sample whose telephone number is (571)272-1376. The examiner can normally be reached on Monday to Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jerry Lorengo can be reached on (572)272-1233. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


David Sample
Primary Examiner
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